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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

William Edward Davis, Jr.,
Plaintiff,

v.

Ryan Thornell, et al.,
Defendants.

No. CV-25-00054-PHX-JAT (JFM)

ORDER

Plaintiff William Edward Davis, Jr., who is confined in the Arizona State Prison Complex-Lewis, has filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and an Application to Proceed In Forma Pauperis (Doc. 2). Plaintiff has also filed a Motion to Cover All Court Costs and Filing Fees (Doc. 5), a Motion for Waiver of Copies and Distribution Requirement (Doc. 6), and a Motion for Emergency Preliminary Injunction (Doc. 7). On March 3, 2025, Plaintiff filed a Motion to Waive Requirement for Copies and Distribution for Duration of Case (Doc. 10), and a Motion to Compel Response to Motion for Preliminary Injunction (Doc. 11). On April 18, 2025, Plaintiff filed three more Motions: Motion Seeking Court Order (Doc. 12), a Motion for Legal Counsel (Doc. 13), and a Motion to Proceed After Showing Cause (Doc. 14).

The Court will grant the Application to Proceed, dismiss the Complaint with leave to amend, deny as moot Plaintiff's Motion to Compel Response to Motion for Preliminary Injunction, and deny Plaintiff's Motion to Cover all Court Costs and Filing Fees, Motions for Waiver of Copies and Distribution, Motion for Emergency Preliminary Injunction,

1 Motion Seeking Court Order, and Motion for Legal Counsel. The Court will grant in part
2 Plaintiff's Motion to Proceed After Showing Cause.

3 **I. Application to Proceed In Forma Pauperis and Filing Fee**

4 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28
5 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C.
6 § 1915(b)(1). The Court will assess an initial partial filing fee of \$12.30. The remainder
7 of the fee will be collected monthly in payments of 20% of the previous month's income
8 credited to Plaintiff's trust account each time the amount in the account exceeds \$10.00.
9 28 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate
10 government agency to collect and forward the fees according to the statutory formula.

11 **II. Statutory Screening of Prisoner Complaints**

12 The Court is required to screen complaints brought by prisoners seeking relief
13 against a governmental entity or an officer or an employee of a governmental entity. 28
14 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
15 has raised claims that are legally frivolous or malicious, fail to state a claim upon which
16 relief may be granted, or seek monetary relief from a defendant who is immune from such
17 relief. 28 U.S.C. § 1915A(b)(1)–(2).

18 A pleading must contain a "short and plain statement of the claim *showing* that the
19 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does
20 not demand detailed factual allegations, "it demands more than an unadorned, the-
21 defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678
22 (2009). "Threadbare recitals of the elements of a cause of action, supported by mere
23 conclusory statements, do not suffice." *Id.*

24 "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a
25 claim to relief that is plausible on its face.'" *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
26 550 U.S. 544, 570 (2007)). A claim is plausible "when the plaintiff pleads factual content
27 that allows the court to draw the reasonable inference that the defendant is liable for the
28 misconduct alleged." *Id.* "Determining whether a complaint states a plausible claim for

1 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
 2 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual
 3 allegations may be consistent with a constitutional claim, a court must assess whether there
 4 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

5 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
 6 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342
 7 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent
 8 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
 9 U.S. 89, 94 (2007) (per curiam)).

10 If the Court determines that a pleading could be cured by the allegation of other
 11 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
 12 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). The
 13 Court will dismiss Plaintiff’s Complaint for failure to state a claim, but because it may
 14 possibly be amended to state a claim, the Court will dismiss it with leave to amend.

15 **III. Complaint**

16 In his one-count complaint, Plaintiff alleges an Eighth Amendment claim for failure
 17 to protect. Plaintiff names as Defendants Arizona Department of Corrections Director
 18 Ryan Thornell, Warden John Mattos, Deputy Warden S. Rogers, and Assistant Deputy
 19 Warden Mannita Hudson. Plaintiff seeks a preliminary injunction, monetary damages of
 20 \$1,500,000.00, and protections for all sex offenders and inmates seeking protective custody
 21 pursuant to Department Order (DO) 805 of the Arizona Department of Corrections
 22 Rehabilitation and Reentry Department Order Manual.

23 Plaintiff claims he was assaulted after Defendants housed Plaintiff, a sex offender
 24 inmate, with general population inmates. He alleges the Arizona Department of
 25 Corrections segregated sex offender inmates in 1999 after numerous assaults and murders.
 26 Plaintiff asserts he was assaulted for being a sex offender and has “repeatedly sought
 27 protective segregation under Department Order 805, only to be denied” His requests
 28 to be returned to a sex offender unit, have “fall[en] on deaf ears.” Plaintiff states his injuries

1 include being assaulted, getting threatened daily, and “paying extortion to keep from being
2 assaulted further” which has resulted in him being “out of money.”

3 **IV. Failure to State a Claim**

4 In order to state a claim under the Eighth Amendment for failure to protect, an
5 inmate must allege facts to support that he was incarcerated under conditions posing a
6 substantial risk of serious harm and that jail officials were “deliberately indifferent” to that
7 risk. *Farmer v. Brennan*, 511 U.S. 825, 832-34 (1994). Deliberate indifference is a higher
8 standard than negligence or lack of ordinary due care for the prisoner’s safety. *Id.* at 835.
9 To adequately allege deliberate indifference, a plaintiff must allege facts to support that a
10 defendant knew of, but disregarded, an excessive risk to inmate safety. *Id.* at 837. That is,
11 “the official must both [have been] aware of facts from which the inference could be drawn
12 that a substantial risk of serious harm exist[ed], and he must also [have] draw[n] the
13 inference.” *Id.* Deliberate indifference is a higher standard than negligence or lack of
14 ordinary due care for the prisoner’s safety. *Id.* at 835. In defining “deliberate indifference”
15 in this context, the Supreme Court has imposed a subjective test: “the official must both be
16 aware of facts from which the inference could be drawn that a substantial risk of serious
17 harm exists, and he must also draw the inference.” *Id.* at 837 (emphasis added).

18 Plaintiff fails to allege how long he previously spent in protective custody and does
19 not assert the timing or details of his assault after being placed back into general population.
20 He further does not allege if his request for protective custody housing was verbal or
21 written, to whom he submitted the request and on what date, what the request said, or what
22 response he received, if any. Absent additional facts, Plaintiff fails to state an Eighth
23 Amendment claim for failure to protect.

24 **V. Leave to Amend**

25 For the foregoing reasons, the Court will dismiss Plaintiff’s Complaint for failure to
26 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
27 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
28 mail Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff

1 fails to use the court-approved form, the Court may strike the amended complaint and
2 dismiss this action without further notice to Plaintiff.

3 Plaintiff must clearly designate on the face of the document that it is the “First
4 Amended Complaint.” The first amended complaint must be retyped or rewritten in its
5 entirety on the court-approved form and may not incorporate any part of the original
6 Complaint by reference. Plaintiff may include only one claim per count.

7 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
8 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d
9 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat the original Complaint
10 as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the
11 original Complaint and that was voluntarily dismissed or was dismissed without prejudice
12 is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693
13 F.3d 896, 928 (9th Cir. 2012) (en banc).

14 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements
15 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name
16 of the Defendant who violated the right; (3) exactly what that Defendant did or failed to
17 do; (4) how the action or inaction of that Defendant is connected to the violation of
18 Plaintiff’s constitutional right; and (5) what specific injury Plaintiff suffered because of
19 that Defendant’s conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

20 Plaintiff must repeat this process for each person he names as a Defendant. If
21 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
22 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
23 failure to state a claim. **Conclusory allegations that a Defendant or group of**
24 **Defendants has violated a constitutional right are not acceptable and will be**
25 **dismissed.**

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VI. Plaintiff's Motions

A. Motion to Cover All Court Costs and Filing Fees

Plaintiff requests that the Court order Defendants to pay Plaintiff's court costs and filing fees (Doc. 5). The Court will deny the Motion. Plaintiff may seek costs and fees as part of a damages award in his request for relief in an amended complaint, but the Court will not award Plaintiff costs and fees before Plaintiff has successfully litigated his claims.

B. Motions for Waiver of Copies and Distribution

In his January 8, 2025 Motion, Plaintiff requests the Court waive the "copies and distribution requirement due to the extraordinary circumstances in this case" because the requirement would place a hardship on Plaintiff (Doc. 6). On March 3, 2025, Plaintiff filed another Motion to Waive Requirement for Copies and Distribution for Duration of Case (Doc. 10).

Because Plaintiff is currently confined in an Arizona Department of Corrections, Rehabilitation & Reentry Complex or Private Facility subject to General Order 23-19, Plaintiff can comply with Federal Rule of Civil Procedure 5(d) by including, with every document Plaintiff files, a certificate of service stating that this case is subject to General Order 23-19 and indicating the date the document was delivered to prison officials for filing with the Court.¹ Plaintiff is not required to serve Defendants with copies of every document or provide an additional copy of every document for the Court's use. As such, the Court will deny Plaintiff's Motions.

C. Motion for Emergency Preliminary Injunction

Whether to grant or deny a motion for a preliminary injunction is within the Court's discretion. *See Miss Universe, Inc. v. Flesher*, 605 F.2d 1130, 1132-33 (9th Cir. 1979). To obtain a preliminary injunction, the moving party must show "that he is likely to succeed

¹ If Plaintiff is transferred to a facility other than one subject to General Order 23-19, Plaintiff will be required to: (a) serve Defendants, or counsel if an appearance has been entered, a copy of every document Plaintiff files, and include a certificate stating that a copy of the filing was served; and (b) submit an additional copy of every filing for use by the Court. *See* Fed. R. Civ. P. 5(a) and (d); LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice to Plaintiff.

1 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
 2 that the balance of equities tips in his favor, and that an injunction is in the public interest.”
 3 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The moving party has
 4 the burden of proof on each element of the test. *Env'tl. Council of Sacramento v. Slater*,
 5 184 F. Supp. 2d 1016, 1027 (E.D. Cal. 2000).

6 In his Motion for Preliminary Injunction, Plaintiff seeks an injunction transferring
 7 him out of the Rast Unit, away from general population inmates, due to personal safety
 8 concerns as a sex offender (Doc. 7). Because the Court has dismissed Plaintiff's claims
 9 for threat to safety, Plaintiff has failed to show he is likely to succeed on the merits of that
 10 claim. Thus, the Court will deny without prejudice the Motion for Emergency Preliminary
 11 Injunction.

12 **D. Motion to Compel Response to Motion for Preliminary Injunction**

13 In Plaintiff's Motion to Compel, he asks the Court to grant his Motion for
 14 Emergency Preliminary Injunction (Doc. 11). Because the Court is denying Plaintiff's
 15 Motion for Emergency Injunction, the Court will deny as moot Plaintiff's Motion to
 16 Compel Response to Motion for Preliminary Injunction.

17 **E. Motion Seeking Court Order**

18 Plaintiff motions the Court to “force Correctional Officer IV Lee Jackson and the
 19 Arizona Department of Corrections to respond to Plaintiff's grievances” (Doc. 12).
 20 Plaintiff's motion is essentially a request for injunctive relief. However, an injunction or
 21 restraining order is appropriate to grant “intermediate relief of the same character as that
 22 which may be granted finally,” but relief is not proper when it is requested on matters lying
 23 wholly outside the issues in the suit. *DeBeers Consol. Mines v. United States.*, 325 U.S.
 24 212, 220 (1945). To obtain injunctive relief, the party “must necessarily establish a
 25 relationship between the injury claimed in the party's motion and the conduct asserted in
 26 the complaint.” *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994) (per curiam).
 27 Correctional Officer Jackson is not a party to this action and the claims in Plaintiff's
 28 Complaint do not relate to grievances. Accordingly, the Court will deny the Motion.

1 **F. Motion for Legal Counsel**

2 Plaintiff requests the Court appoint legal counsel to represent him in this case
3 because he suffers from paranoid schizophrenia that is not always managed by medication,
4 he is “a layman in the law,” and because the foregoing factors put him at a disadvantage
5 against legal counsel for the Arizona Department of Corrections (Doc. 13). There is no
6 constitutional right to the appointment of counsel in a civil case. *See Ivey v. Bd. of Regents*,
7 673 F.2d 266, 269 (9th Cir. 1982). In proceedings in forma pauperis, the court may request
8 an attorney to represent any person unable to afford one. 28 U.S.C. § 1915(e)(1).
9 Appointment of counsel under 28 U.S.C. § 1915(e)(1) is required only when “exceptional
10 circumstances” are present. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). A
11 determination with respect to exceptional circumstances requires an evaluation of the
12 likelihood of success on the merits as well as the ability of Plaintiff to articulate his claims
13 pro se in light of the complexity of the legal issue involved. *Id.* “Neither of these factors
14 is dispositive and both must be viewed together before reaching a decision.” *Id.* (quoting
15 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

16 Having considered both elements, it does not appear at this time that exceptional
17 circumstances are present that would require the appointment of counsel in this case.
18 Plaintiff is in no different position than many pro se prisoner litigants. Thus, the Court will
19 deny without prejudice Plaintiff’s Motion for Legal Counsel.

20 **G. Motion to Proceed After Showing Cause**

21 In his Motion to Proceed, Plaintiff asserts the “Rast Unit Administration is hindering
22 his attempts to bring this case before [the Court] by refusing to answer the informal
23 resolution attempt” and asks the Court to allow his case to proceed “as is” (Doc. 14). The
24 Court will grant the Motion to the extent the Court will grant Plaintiff leave to file an
25 amended complaint.

26 To the extent Plaintiff seeks a ruling on whether his claims are properly exhausted,
27 the Court will deny the Motion as premature. Exhaustion is an affirmative defense. *Brown*
28 *v. Valoff*, 422 F.3d 926 (9th Cir. 2005). In the event that Defendants raise exhaustion as

1 an affirmative defense in the future, Plaintiff will be free to argue he was unable to properly
2 exhaust administrative remedies due to Rast Unit Administration's actions.

3 **VII. Warnings**

4 **A. Release**

5 If Plaintiff is released while this case remains pending, and the filing fee has not
6 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
7 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
8 (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may
9 result in dismissal of this action.

10 **B. Address Changes**

11 Plaintiff must file and serve a notice of a change of address in accordance with Rule
12 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
13 relief with a notice of change of address. Failure to comply may result in dismissal of this
14 action.

15 **C. Possible "Strike"**

16 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff
17 fails to file an amended complaint correcting the deficiencies identified in this Order, the
18 dismissal may count as a "strike" under the "3-strikes" provision of 28 U.S.C. § 1915(g).
19 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil
20 judgment in forma pauperis under 28 U.S.C. § 1915 "if the prisoner has, on 3 or more prior
21 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
22 court of the United States that was dismissed on the grounds that it is frivolous, malicious,
23 or fails to state a claim upon which relief may be granted, unless the prisoner is under
24 imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

25 **D. Possible Dismissal**

26 If Plaintiff fails to timely comply with every provision of this Order, including these
27 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
28

1 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
2 the Court).

3 **IT IS ORDERED:**

4 (1) Plaintiff's Application to Proceed In Forma Pauperis (Doc. 2) is **granted**.

5 (2) As required by the accompanying Order to the appropriate government
6 agency, Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee
7 of \$12.30.

8 (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff
9 has **30 days** from the date this Order is filed to file a first amended complaint in compliance
10 with this Order.

11 (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of
12 Court must, without further notice, enter a judgment of dismissal of this action with
13 prejudice that states that the dismissal may count as a "strike" under 28 U.S.C. § 1915(g)
14 and deny any pending unrelated motions as moot.

15 (5) Plaintiff's Motion to Cover All Court Costs and Filing Fees (Doc. 5) is
16 **denied**.

17 (6) The Motion for Waiver of Copies and Distribution Requirement (Doc. 6) is
18 **denied**.

19 (7) Plaintiff's Motion for Emergency Preliminary Injunction (Doc. 7) is **denied**.

20 (8) The Motion to Waive Requirement for Copies and Distribution For Duration
21 of Case (Doc. 10) is **denied**.

22 (9) Plaintiff's Motion to Compel Response to Motion for Preliminary Injunction
23 (Doc. 11) is **denied as moot**.

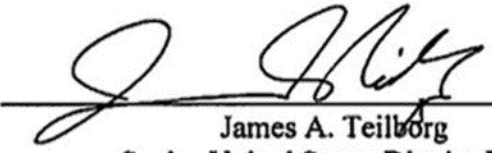
24 (10) The Motion seeking Court Order (Doc. 12) is **denied**.

25 (11) Plaintiff's Motion for Legal Counsel (Doc. 13) is **denied**.

26 (12) The Motion to Proceed After Showing Cause is **granted in part**, insofar as
27 Plaintiff may file an amended complaint. In all other respects, the motion is **denied**.
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1 (13) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
2 rights complaint by a prisoner.

3 Dated this 15th day of May, 2025.

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7 James A. Teilborg
8 Senior United States District Judge
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**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$405.00 (\$350.00 filing fee plus \$55.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Unless you are an inmate housed at an Arizona Department of Corrections facility that participates in electronic filing, mail the original and one copy of the complaint with the \$405 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as: _____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: _____.
 2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	
 3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

 4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

 5. **Administrative Remedies:**

 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 - b. Did you submit a request for administrative relief on Count I? ☐ Yes ☐ No
 - c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: _____

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.